



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-502]

Certain Welded Carbon Steel Standard Pipes and Tubes from India: Initiation of Circumvention Inquiry on the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Bull Moose Tube Company (Bull Moose), Nucor Tubular Products Inc. (Nucor Tubular), Wheatland Tube Company (Wheatland) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (the USW) (collectively, the domestic interested parties), the Department of Commerce (Commerce) is initiating a country-wide circumvention inquiry to determine whether imports of certain welded carbon steel standard pipes and tubes (pipe and tube), which are completed in Oman and the United Arab Emirates (UAE) from hot-rolled steel (HRS) produced in India, are circumventing the antidumping duty (AD) order on pipe and tube from India.

DATES: Applicable [insert date of publication in the *Federal Register*]

FOR FURTHER INFORMATION CONTACT: Jacob Keller, AD/CVD

Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S.

Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4849.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2021, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.226(c) domestic interested parties filed a circumvention inquiry request alleging that pipe and tube completed in Oman and the UAE using HRS

manufactured in India are circumventing the *Order*¹ and, accordingly, should be included within the scope of the *Order*.² On December 24, 2021, Al Jazeera Steel Products Co. SAOG (Al Jazeera) filed opposition comments in response to the domestic interested parties' request.³ On January 5, 2022, the domestic interested parties filed rebuttal comments regarding Al Jazeera's opposition comments.⁴ On January 11, 2022, Universal Tube and Plastic Industries, Ltd.; KHK Scaffolding and Formwork LLC; and THL Pipe and Tube Industries LLC (collectively, Universal) filed opposition comments.⁵ On January 13, 2022, Conares Metal Supply Limited (Conares) filed opposition comments.⁶

On January 6, 2022, we issued a supplemental questionnaire to the domestic interested parties regarding their circumvention inquiry request.⁷ On January 18, 2022, the domestic interested parties filed their response to our supplemental questionnaire.⁸ On January 24 and 25, 2022, Universal, Ajmal Steel Tubes and Pipes Ind., LLC, and K.D Industries Inc. (UAE Producers), and Conares filed additional opposition comments, respectively.⁹

On January 11, 2022, we extended the deadline to initiate these circumvention inquiries by 15 days, in accordance with 19 CFR 351.226(d)(1).¹⁰ On January 28, 2022, we extended, for

¹ See *Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India*, 51 FR 17384 (May 12, 1986) (*Order*).

² See Domestic Interested Parties' Letter, "Certain Welded Carbon Steel Standard Pipes and Tubes from India: Request for an Anti-Circumvention Inquiry," dated December 16, 2021.

³ See Al Jazeera's Letter, "Welded Carbon Steel Standard Pipe from India; Al Jazeera Comments on Petitioners' Request for Anti-circumvention Inquiry," dated December 24, 2021.

⁴ See Domestic Interested Parties' Letter, "Certain Welded Carbon Steel Standard Pipes and Tubes from India: Response to Al Jazeera's Comments on Request for Anti-Circumvention Inquiry," dated January 5, 2022.

⁵ See Universal's Letter, "Certain Welded Carbon Steel Standard Pipes and Tubes from India – Response to Domestic Interested Parties' Request for an Anti-Circumvention Inquiry," dated January 11, 2022.

⁶ See Conares' Letter, "Welded Carbon Steel Standard Pipe from India: Comments on Anti-Circumvention Inquiry," dated January 13, 2022.

⁷ See Commerce's Letter, "Anti-Circumvention Inquiry of Certain Welded Carbon Steel Standard Pipe and Tube from India: Supplemental Questionnaire," dated January 6, 2022.

⁸ See Domestic Interested Parties' Letter, "Certain Welded Carbon Steel Standard Pipes and Tubes from India: Response to Supplemental Questionnaire," dated January 18, 2022.

⁹ See UAE Producers' Letter, "Certain Welded Carbon Steel Standard Pipes and Tubes from India – Additional Information to Support a Rejection of an Anti-Circumvention Inquiry Request," dated January 14, 2022; *see also* Conares' Letter, "Welded Carbon Steel Standard Pipe from India: Rebuttal and Comments on Domestic Interested Parties' Supplemental Response," dated January 25, 2022.

¹⁰ See Memoranda, "Certain Welded Steel Carbon Standard Pipes and Tubes from India: Extension of Time to Determine Whether to Initiate Anti-Circumvention Inquiry," dated January 11, 2022; and "Certain Welded Steel Carbon Standard Pipes and Tubes from India: Revised Extension of Time to Determine Whether to Initiate Anti-Circumvention Inquiry," dated January 12, 2022.

good cause, the deadline to initiate by an additional 15 days in accordance with 19 CFR 351.302(b).¹¹

Scope of the *Order*

The products covered by the *Order* include certain welded carbon steel standard pipes and tubes with an outside diameter of 0.375 inch or more but not over 16 inches. These products are commonly referred to in the industry as standard pipes and tubes produced to various American Society for Testing Materials (ASTM) specifications, most notably A-53, A-120, or A-135. The antidumping duty order on certain welded carbon steel standard pipes and tubes from India, published on May 12, 1986, included standard scope language which used the import classification system as defined by Tariff Schedules of the United States, Annotated (TSUSA).

The United States developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). *See, e.g., Certain Welded Carbon Steel Standard Pipes and Tubes from India; Preliminary Results of Antidumping Duty Administrative Reviews*, 56 FR 26650, 26651 (June 10, 1991). As a result of this transition, the scope language we used in the 1991 *Federal Register* notice is slightly different from the scope language of the original final determination and antidumping duty order.

Until January 1, 1989, such merchandise was classifiable under item numbers 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the TSUSA. This merchandise is currently classifiable under HTS subheadings 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090. As with the TSUSA item numbers, the HTS subheadings are provided for convenience and customs purposes.

The written product description remains dispositive.

¹¹ See Memorandum, “Certain Welded Carbon Steel Standard Pipes and Tubes from India: Extension of Time to Determine Whether to Initiate Anti-Circumvention Inquiry,” dated January 28, 2022.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers pipe and tube completed in Oman and the UAE using India-origin HRS and subsequently exported from Oman and the UAE to the United States.

Initiation of Circumvention Inquiry

Section 351.226(d) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce "will accept the request and initiate a circumvention inquiry." Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each circumvention inquiry request allege "that the elements necessary for a circumvention determination under section 781 of the Act exist" and be "accompanied by information reasonably available to the interested party supporting these allegations."

Section 781(b)(1) of the Act provides that Commerce may find circumvention of an AD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting a circumvention inquiry, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the AD or countervailing duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country; (B) the level of research and development in the foreign country; (C) the nature of the production process in the foreign country; (D) the extent of production facilities in the foreign country; and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.¹² Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular circumvention inquiry.¹³

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping or countervailing duty order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

Based on our analysis of the domestic interested parties' circumvention request, Commerce determines that the domestic interested parties have satisfied the criteria under 19 CFR 351.226(c) to warrant the initiation of a circumvention inquiry of the *Order*. For a full

¹² See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103-316 (1994) at 893.

¹³ See *Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

discussion of the basis for our decision to initiate this circumvention inquiry, *see* the Circumvention Initiation Memo.¹⁴ As explained in the Circumvention Initiation Memo, the information provided by domestic interested parties warrants initiating this circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.¹⁵

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in Oman and the UAE concerning their shipments of pipe and tube made from India-origin HRS to the United States. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce will notify U.S. Customs and Border Protection (CBP) of the initiation and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation under the *Order*. Should Commerce issue preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)-(4).

Notification to Interested Parties

¹⁴ See Memorandum, "Certain Welded Carbon Steel Standard Pipes and Tubes from India: Initiation of Circumvention Inquiries on the Antidumping Duty Order," dated concurrently with, and hereby adopted by, this notice (Circumvention Initiation Memo). This memo is a public document and available electronically online via ACCESS.

¹⁵ See, e.g., *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018); *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

In accordance with 19 CFR 351.226(d) and section 781(b) of the Act, Commerce determines that the domestic interested parties' request for this circumvention inquiry satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of this circumvention inquiry to determine whether certain imports of pipe and tube, completed in and exported from Oman and the UAE using HRS inputs manufactured in India, are circumventing the *Order*. In addition, we have included a description of the products that are the subject of this inquiry, and an explanation of the reasons for Commerce's decision to initiate this inquiry as provided above and in the accompanying Circumvention Initiation Memo.¹⁶ In accordance with 19 CFR 351.226(e)(2), Commerce intends to issue its final circumvention determination within 300 days from the date of publication of the notice of initiation of a circumvention inquiry in the *Federal Register*.

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.226(d)(1)(ii).

Dated: February 14, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

¹⁶ See Circumvention Initiation Memo.

Appendix

List of Topics Discussed in the Circumvention Initiation Memo

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Statutory and Regulatory Framework for Circumvention Inquiries
- VI. Statutory Analysis for the Circumvention Inquiry
- VII. Comments Opposing the Initiation of a Circumvention Inquiry
- VIII. Country-Wide Circumvention Inquiries
- IX. Recommendation

[FR Doc. 2022-03661 Filed: 2/18/2022 8:45 am; Publication Date: 2/22/2022]